

Chapter 14.60 SEPA - Environmental Review.

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14.60.010 Authority.

This chapter is adopted under the authority of the State Environmental Policy Act ("SEPA"), RCW 43.21C.120, and the SEPA rules, WAC 197-11-904. This chapter contains the City's SEPA procedures and policies.

14.60.020 Purpose.

The purposes of this chapter are to adopt the uniform requirements of Chapter 197-11 WAC and to establish specific local procedures and policies where appropriate in order to perform environmental review and comply with SEPA.

14.60.030 Conflicts.

Any irreconcilable conflict between this chapter, Chapter 197-11 WAC, and/or Chapter 43.21C RCW shall be resolved in favor of the provision that is most protective of the environment and meets the minimum standards of 197-11 WAC.

14.60.040 Scope and policy.

- A. The City of Duvall adopts WAC 197-11-030, as now existing or hereinafter amended, by reference, subject to the following:

1. Under WAC 197-11-030(1) and (2), the terms “agency” and “agencies” shall include the City of Duvall and its respective departments.
 2. Under WAC 197-11-030(2)(a), the text is revised to interpret and administer the policies, regulations, and laws of the State of Washington and applicable ordinances and resolutions of the City of Duvall in accordance with the policies set forth in RCW 43.21C and WAC 197-11.
- B. The City hereby establishes these procedures to implement the State Environmental Policy Act, herein referred to as “SEPA”, Chapter 43.21C RCW, consistent with those rules under Chapter 197-11 WAC. The procedures are promulgated under WAC 197-11-020(1), which states: “Each agency must have its own SEPA procedures consistent with” Chapter 197-11 WAC and Chapter 43.21C RCW. Consistent with WAC 197-11-020(3), these provisions, Chapter 197-11 WAC, and Chapter 43.21C RCW, must be read together as a whole to comply with the spirit and letter of the law.

14.60.050 Definitions.

Terms defined under DMC 14.06 shall apply to this chapter, subject to the following:

- A. Where DMC 14.06 does not define terms, the City of Duvall adopts those definitions under WAC 197-11-040, 197-11-220, and 197-11-700 through 197-11-799, as existing and as hereafter amended.
- B. Where a conflict exists between those terms under DMC 14.06 and WAC 197-11-040 and 197-11-700 through 197-11-799, the more specific definition that meets the minimum standards and spirit of 197-11 WAC shall apply.

14.60.060 Consolidated review.

Except as otherwise exempted, environmental review under this chapter and development proposal review under this Title shall be consolidated as specified in DMC 14.08, Permit Processing.

14.60.070 Purpose and general requirements.

The City adopts by reference the following sections of Chapter WAC 197-11-055 through 197-11-158 and WAC 197-902 through 197-11-906, as now existing or hereafter amended, by reference, subject to the following:

- A. Analyzing Similar Actions in a Single Document. The City adopts the optional provision of WAC 197-11-060(3)(c).
- B. Time Guidelines. Under 197-11-055(2)(b), the responsible official will make a threshold determination within 90 days of determining that a completed application has been submitted, consistent with WAC 197-11-055(2)(d), subject to:
 1. The calculation of the number of days in subsection (2)(b) of this section shall not include those days between the mailing of any request for additional information and re-submittal.
 2. The responsible official shall not make a threshold determination when there is not adequate information to make a threshold determination within 90 days. When there is not adequate information to make a determination at the end of 90 days, the responsible official shall notify the applicant in writing regarding the information required to make a threshold determination.
 3. Content of SEPA Checklist – Responsibility. The applicant shall prepare the initial environmental checklist, unless the responsible official specifically elects to prepare the checklist. The responsible official shall make a reasonable effort to verify the information in the checklist and supporting documentation and shall have the authority to determine the final content of the checklist.

4. Additional Information for SEPA Checklist – Timelines. The responsible official may set reasonable deadlines for the submittal of information, studies, or documents that are necessary for, or subsequent to, threshold determinations. Unless an extension is requested in writing and approved, failure to meet such deadlines shall cause the application to be deemed withdrawn.
- C. The applicant shall pay all costs related to environmental review in accordance with this chapter.

14.60.080 Planned actions.

- A. Planned actions allowed under this chapter shall comply with DMC 14.08, Permit Processing.
- B. The City adopts by reference the following sections of Chapter 197-11 WAC, as now existing or hereafter amended, as supplemented in this chapter:

197-11-164	Planned actions – Definitions and criteria.
197-11-168	Ordinances or resolutions designating planned actions – Procedures for adoption.
197-11-172	Planned actions – Project review.

14.60.090 Integration with Model Toxics Control Act.

The City adopts by reference the following sections of Chapter 197-11 WAC, as now existing or hereafter amended, as supplemented in this chapter:

197-11-250	SEPA/Model Toxics Control Act integration.
197-11-253	SEPA lead agency for MTCA actions.
197-11-256	Preliminary evaluation.
197-11-259	Determination of nonsignificance for MTCA remedial action.
197-11-262	Determination of significance and EIS for MTCA remedial actions.
197-11-265	Early scoping for MTCA remedial actions.
197-11-268	MTCA interim actions.

14.60.100 Designation of responsible official.

- A. For those proposals for which the City is a lead agency, the responsible official shall be the Planning Director or such other person the Mayor may designate.
- B. For all proposals for which the City is a lead agency, the responsible official shall make the threshold determination, supervise scoping and preparation of any required EIS, and perform all other functions assigned to the lead agency or responsible official by those sections of the SEPA rules that have been adopted by reference.

14.60.110 Lead agency determination and responsibilities – Adoption by reference.

The City adopts by reference the following sections of Chapter 197-11 WAC, as now existing or hereafter amended, as supplemented in this chapter:

197-11-050	Lead agency.
197-11-920	Agencies with environmental expertise.
197-11-922	Lead agency rules.
197-11-924	Determining the lead agency.
197-11-926	Lead agency for governmental proposals.
197-11-928	Lead agency for public and private proposals.
197-11-930	Lead agency for private projects with one agency with jurisdiction.
197-11-932	Lead agency for private projects requiring licenses from more

197-11-934	than one agency, when one of the agencies is a county/City. Lead agency for private projects requiring licenses from a local agency, not a county/City, and or more state agencies.
197-11-936	Lead agency for private projects requiring licenses from more than one state agency.
197-11-938	Lead agencies for specific proposals.
197-11-940	Transfer of lead agency status to a state agency.
197-11-942	Agreements on lead agency status.
197-11-944	Agreements on division of lead agency duties.
197-11-946	DOE resolution of lead agency disputes.
197-11-948	Assumption of lead agency status.

14.60.120 Categorical exemptions – Adoption by reference.

- A. The City adopts by reference the following sections of Chapter 197-11 WAC, as now existing or hereafter amended, as supplemented in this chapter:

197-11-305	Categorical exemptions.
197-11-800	Categorical exemptions except as noted in 14.60.120.B.
197-11-880	Emergencies.
197-11-890	Petitioning DOE to change exemptions.

- B. The City establishes the following exempt levels for minor new construction under WAC 197-11-800 (1)(b)(v): up to 500 cubic yards.

14.60.130 Threshold determinations – Adoption by reference.

The City adopts by reference the following sections of Chapter 197-11 WAC, as now existing or hereafter amended, as supplemented in this chapter:

197-11-300	Purpose of this part.
197-11-310	Threshold determination required.
197-11-315	Environmental checklist.
197-11-330	Threshold determination process.
197-11-335	Additional information.
197-11-340	Determination of nonsignificance (DNS).
197-11-350	Mitigated DNS.
197-11-355	Optional DNS process.
197-11-360	Determination of significance (DS)/initiation of scoping.
197-11-390	Effect of threshold determination.

14.60.140 Threshold determinations – Review at conceptual stage.

- A. If the City's only action on a proposal is a decision on a building permit or other development proposal that requires detailed project plans and specifications, the applicant may request in writing that the City conduct environmental review prior to submission of the detailed plans and specifications.
- B. In addition to the documents required for environmental review, an applicant shall submit the following information for early environmental review:
1. All items required for submittal for site plan review or as determined by the responsible official.
 2. Other information as the responsible official may determine is necessary to review the application and issue a determination.

14.60.150 Threshold determinations – Environmental checklist.

- A. A completed environmental checklist, a completed sensitive area reconnaissance letter and/or sensitive area reports deemed necessary pursuant to DMC 14.42, shall be filed at the same time as an application for a development proposal or other approval not exempted by this chapter. The checklist shall be in the form of WAC 197-11-960 with such additions that may be required by the responsible official in accordance with WAC 197-11-906(4) and this chapter.
- B. A checklist is not needed if one of the following occurs: the responsible official determines that one of the following applies: an EIS is required; SEPA compliance has been completed; SEPA compliance has been initiated by another agency.
- C. The responsible official shall use the environmental checklist to determine the lead agency. If the City is the lead agency, information provided in the environmental checklist, sensitive area reconnaissance letter and/or sensitive area reports shall assist the responsible official in making a threshold determination.
- D. For private proposals, the applicant is required to complete the environmental checklist, sensitive area reconnaissance letter and/or sensitive area reports. The responsible official may provide assistance as necessary. For City proposals, the department initiating the proposal shall complete the environmental checklist, sensitive area reconnaissance and/or sensitive area reports for that proposal.
- E. The responsible official may decide to annotate the environmental checklist for a private proposal if the responsible official has relevant information or if the applicant has provided incomplete or inaccurate information.

14.60.160 Environmental Impact Statements (EIS) and other environmental documents.

- A. The City adopts by reference the following sections of Chapter 197-11 WAC, as now existing or hereafter amended, as supplemented in this chapter:

197-11-400	Purpose of EIS.
197-11-402	General requirements.
197-11-405	EIS types.
197-11-406	EIS timing.
197-11-408	Scoping.
197-11-410	Expanded scoping.
197-11-420	EIS preparation.
197-11-425	Style and size.
197-11-430	Format.
197-11-435	Cover letter or memo.
197-11-440	EIS contents.
197-11-442	Contents of EIS on non-project proposals.
197-11-443	EIS contents when prior non-project EIS.
197-11-444	Elements of the environment.
197-11-448	Relationship of EIS to other considerations.
197-11-450	Cost-benefit analysis.
197-11-455	Issuance of DEIS
197-11-460	Issuance of FEIS.
- B. Pursuant to WAC 197-11-408(2)(a), all comments on a DS and scoping notices shall be in writing, except where a public meeting on EIS scoping occurs pursuant to WAC 197-11-410(1)(b).
- C. Pursuant to WAC 197-11-420, 197-11-620, and 197-11-625, the responsible official shall be responsible for preparation and content of an EIS and other environmental documents. The responsible official shall contract with consultants, as necessary, for the preparation

of environmental documents and EISs. The responsible official may consider the opinion of the applicant regarding the qualifications of the consultant, but the responsible official shall retain sole authority for selecting persons or firms to author, co-author, provide special services or otherwise participate in the preparation of required environmental documents.

- D. Consultants or sub-consultants contracted by the City to prepare environmental documents for a private development proposal:
1. Shall not act as agents for the applicant in preparation or acquisition of associated underlying permits or actions;
 2. Shall not have a financial interest in the proposal for which the environmental documents is being prepared; and
 3. Shall not perform any work nor provide any services for the applicant in connection with or related to the proposal.

14.60.170 EIS – Additional elements.

The responsible official may include additional elements as part of the environment for the purpose of a complete EIS analysis, however such additional elements shall not add to the criteria for threshold determinations or perform any other function or purpose under this chapter unless such elements otherwise fall within the scope of this chapter.

14.60.180 Public notice and comments – Adoption by reference.

- A. The City adopts by reference the following sections of Chapter 197-11 WAC, as now existing or hereafter amended, as supplemented in this chapter:
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| 197-11-500 | Purpose of this part. |
| 197-11-502 | Inviting comment. |
| 197-11-504 | Availability and cost of environmental documents. |
| 197-11-508 | SEPA register. |
| 197-11-535 | Public hearings and meetings. |
| 197-11-545 | Effect of no comment. |
| 197-11-550 | Specificity of comments. |
| 197-11-560 | FEIS response to comments. |
| 197-11-570 | Consulted agency costs to assist lead agency. |
- B. If required, public notice shall comply with the requirements for the underlying permit as specified in DMC 14.08, Permit Processing.

14.60.190 Designation of official to perform consulted agency responsibilities.

- A. The responsible official shall be responsible for preparation of written comments for the City in response to a consultation request pertaining to a threshold determination or the scoping and reviewing of a draft EIS.
- B. The responsible official shall be responsible for the City's compliance with WAC 197-11-550 and 197-11-912 whenever the City is a consulted agency. The responsible official is authorized to develop operating procedures that will ensure that responses to consultation requests are prepared in a timely fashion and include data from appropriate departments of the City.

14.60.200 Responsibility as consulted agency.

The City adopts by reference 197-11-912 WAC, as now existing or hereafter amended, as supplemented in this chapter:

- A. Pursuant to WAC 197-11-912, all requests from other agencies that the City consults on threshold investigations, the scope process, EISs or other environmental documents shall

be submitted to the Planning Department. The Planning Department shall be responsible for coordination with affected City departments and for compiling and transmitting the City's response to such requests for consultation.

14.60.210 Using existing environmental documents – Adoption by reference.

The City adopts WAC 197-11-600 through 197-11-640, as now existing or hereafter amended, by reference.

14.60.220 SEPA decisions – Adoption by reference.

The City adopts by reference the following sections of Chapter 197-11 WAC, as now existing or hereafter amended, as supplemented in this chapter:

197-11-650	Purpose of this part.
197-11-655	Implementation.
197-11-660	Substantive authority and mitigation.

14.60.230 SEPA decisions – Substantive authority.

- A. The substantive authority set forth in this section is supplemental to all other authorities the City may possess under federal, state, regional and local law.
- B. The City may approve, condition, restrict, limit, modify or deny a development proposal under this chapter based on the following considerations:
 - 1. The conditions, restrictions or limitations are reasonably required to mitigate or prevent specific probable adverse environmental impacts identified in analytical documents prepared pursuant to this chapter or this Title.
 - 2. The conditions, restrictions or limitations are reasonably related to the services, demands, or other impacts caused or created by the development proposal, will mitigate or avoid the adverse impacts, and are capable of being accomplished.
 - 3. The conditions, restrictions or limitations are based on one or more of the policies or goals identified in the Comprehensive Plan, other adopted City policies or the Duvall Municipal Code and cited in the decision document.
 - 4. The policies or goals on which the conditions, restrictions or limitations are based were in effect when the DNS, MDNS or EIS was issued.
 - 5. The conditions, restrictions or limitations are set forth in a written decision document.
 - 6. Whether other local, state or federal requirements or mitigation measures applied to the development proposal are sufficient to mitigate an identified significant environmental impact.
- C. In addition to the considerations set forth above (as may be applicable to a proposal), no development proposal shall be denied under this chapter unless:
 - 1. A finding is made that the proposal would result in probable significant adverse environmental impacts that are identified in a final EIS or final supplemental EIS; and
 - 2. A finding is made that there are no reasonable mitigation measures that are sufficient to mitigate the identified impacts.
- D. Applicants may propose voluntary mitigation or contributions in addition to any mitigation that may be required under this chapter.

14.60.240 SEPA/GMA integration.

The City of Duvall adopts WAC 197-11-210 through 197-11-235, as now existing or hereinafter amended, by reference.

14.60.250 Appeals.

- A. The City adopts by reference WAC 197-11-680, as now existing or hereafter amended, as supplemented in this chapter.

- B. Any interested person may appeal a threshold determination or the adequacy of a final EIS pursuant to the procedures set forth in this section. No other SEPA appeal shall be allowed. Appeals shall be as set out in DMC 14.08.060.C, SEPA Appeals.
- C. All appeals filed pursuant to this section shall comply with the requirements of DMC 14.08.060, Appeals. The procedural determination of the responsible official shall carry substantial weight in every appeal proceeding. The appeal provided by this section shall be a necessary prerequisite to standing to file any judicial appeal arising under this chapter.
- D. All appeals filed pursuant to this section shall be consolidated with the open record hearing on the underlying proposal except those listed as exempt from that requirement in RCW 43.21C.075(3)(b).

14.60.260 Notice of action.

- A. The City, applicant for, or proponent of, an action may publish a notice of action pursuant to RCW 43.21C.080 for any action.
- B. The form of the notice shall be substantially in the form provided in WAC 197-11-990. The notice shall be published by the City clerk, applicant or proponent pursuant to RCW 43.21C.080.
- C. The filing of a notice of action officially starts the time period allowed for filing a judicial appeal of any decision made under this chapter.

14.60.270 Environmental critical areas – Adoption by reference.

The City adopts by reference WAC 197-11-908, as now existing or hereafter amended, as supplemented in this chapter. The City selects the following categorical exemptions as not being exempt when located in a sensitive area:

197-11-800 (1)	Minor new construction – flexible thresholds
197-11-800 (2)(d)-(e)	Other minor new construction
197-11-800 (3)	Repair, remodeling, and maintenance activities
197-11-800 (6)(a)	Minor land use decisions
197-11-800 (23) (b)-(c)	Utilities
197-11-800 (24) (g)	Natural resources management

14.60.280 Forms – Adoption by reference.

The City adopts by reference the following forms and sections of Chapter 197-11 WAC, as now existing or hereafter amended:

197-11-960	Environmental checklist.
197-11-965	Adoption notice.
197-11-970	Determination of nonsignificance (DNS).
197-11-980	Determination of significance (DS) and scoping notice.
197-11-985	Notice of assumption of lead agency status.
197-11-990	Notice of action.